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37/19. The negative impact of corruption on the right to be free from torture and other cruel, inhuman or degrading treatment or punishment

The Human Rights Council,

Recalling all resolutions on torture and other cruel, inhuman or degrading treatment or punishment adopted by the General Assembly, the Commission on Human Rights and the Human Rights Council,

Recalling also all relevant resolutions of the Commission on Human Rights and the Human Rights Council on the negative impact of corruption on human rights,

Reaffirming that no one shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment,

Acknowledging that good governance, transparency, accountability and the rule of law play a central role both in the promotion and protection of human rights, including to ensure the absolute prohibition against torture and other cruel, inhuman or degrading treatment or punishment, and in preventing and combating corruption at all levels,

Concerned about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law,

Recognizing that the international legal frameworks for protecting human rights and fighting corruption are complementary and mutually reinforcing,

Recalling the correlation between the levels of corruption within a State and the prevalence of torture and other cruel, inhuman or degrading treatment or punishment recognized in the seventh annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[1]

Recognizing that corruption has a disproportionate impact on persons in vulnerable situations and persons belonging to marginalized groups and may have an adverse impact on their access to justice, redress and compensation, including as victims of torture and other cruel, inhuman or degrading treatment or punishment, which may increase their risk

[1] CAT/C/52/2, para. 72.

of being subjected to torture and other cruel, inhuman or degrading treatment or punishment,

1. *Urges* all States that have not become a party to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment to do so, and to give early consideration to signing and ratifying the Optional Protocol thereto as a matter of priority;

2. *Also urges* all States that have not yet done so to consider ratifying the United Nations Convention against Corruption, and calls upon States parties to the Convention to effectively implement it;

3. *Stresses* that all acts of torture must be made offences under domestic criminal law punishable by appropriate penalties that take into account their grave nature, and calls upon States to prohibit under domestic law acts constituting cruel, inhuman or degrading treatment or punishment;

4. *Calls upon* States to adopt such legislative and other measures as may be necessary to establish acts of corruption as criminal offences, as required in the United Nations Convention against Corruption and in other relevant regional anti-corruption treaties to which they are a party;

5. *Stresses* that States must take effective legislative, administrative, judicial or other measures to prevent public officials, including law enforcement officials or other persons acting in an official capacity, from inflicting, instigating or consenting or acquiescing to any acts of torture or other cruel, inhuman or degrading treatment or punishment;

6. *Also stresses* that public officials should not commit any act of corruption, and that they should rigorously oppose and combat all such acts;

7. *Recognizes* that the prevalence of corruption, including in law enforcement and justice systems, can have a negative impact on the fight against torture and other cruel, inhuman or degrading treatment or punishment, including by eroding fundamental safeguards and preventing victims of torture and other cruel, inhuman or degrading treatment or punishment from effectively seeking justice, redress and compensation through the justice system;

8. *Recognizes with concern* that the threat or act of torture and other cruel, inhuman or degrading treatment or punishment may be used as a means of perpetrating acts of corruption;

9. *Recognizes* that measures to combat torture and other cruel, inhuman or degrading treatment or punishment should give due attention to the detrimental effects of corruption, and that efforts to prevent and combat corruption and efforts to prevent and combat torture and other cruel, inhuman or degrading treatment or punishment can be mutually reinforcing;

10. *Urges* States to adopt, implement and comply fully with legal and procedural safeguards against torture and other cruel, inhuman or degrading treatment or punishment, and ensure that these safeguards are not compromised by any form or practice of corruption, recognizing that such safeguards can also be a valuable protection against corrupt practices;

11. *Underlines* that one key aspect of prevention measures against corruption is to address the needs of those in vulnerable situations and persons belonging to marginalized groups, who may be the first persons negatively affected by corruption and may consequently be at greater risk of being subjected to torture and other cruel, inhuman or degrading treatment or punishment;

12. *Invites* bodies working on the eradication and prevention of torture and other cruel, inhuman or degrading treatment or punishment to cooperate with national anti-corruption authorities and national human rights institutions, where they exist, in addressing how corruption negatively affects the right to be free from torture and other cruel, inhuman or degrading treatment or punishment, including through the exchange of relevant information;

13. *Emphasizes* the essential role of law enforcement officials, judges, prosecutors and lawyers in safeguarding the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment, and that States should ensure the effective administration of justice, including by taking effective measures to combat corruption in the administration of justice, establishing proper legal aid programmes and having law enforcement officials, judges, prosecutors and lawyers adequately and in sufficient numbers selected, trained and remunerated;

14. *Calls upon* States, in the training of law enforcement personnel, judges, prosecutors and other relevant public officials, to include education and information regarding the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment and to enhance their awareness of how the risks of corruption in the performance of their functions may increase the risk of torture and other cruel, inhuman or degrading treatment or punishment;

15. *Stresses* that corruption in any area of the justice system has a negative impact on its independence, impartiality and effectiveness, including its mechanisms that investigate and prosecute acts of torture and other cruel, inhuman or degrading treatment or punishment and provide access to justice, redress and compensation for victims of such acts;

16. *Emphasizes* that independent oversight and complaints mechanisms and an independent, impartial and effective justice system contribute to accountability, which is essential to the prevention of corruption and of torture and other cruel, inhuman or degrading treatment or punishment, including if facilitated or practiced due to or as a result of corruption;

17. *Also emphasizes* that States are obligated to ensure that any person who alleges to have been subjected to torture or other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction has the right to complain to the competent authorities, and that steps are taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his or her complaint or any evidence given;

18. *Calls upon* States to ensure accountability for acts of torture and other cruel, inhuman or degrading treatment or punishment, and in this regard stresses that preventing and combating corruption are important in ensuring the ability of the competent national authorities to investigate promptly, effectively, independently and impartially all allegations of such acts;

19. *Takes note with appreciation* of the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment of r punishment;[2]

20. *Invites* the Special Rapporteur and other relevant special procedures, within their respective mandates, to take the present resolution into account in their future work.

54th meeting
23 March 2018

[Adopted without a vote.]

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[2] A/HRC/37/50.